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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,072	12/05/2001	Shaun Clem	6979-0009	8815
33356	7590	06/14/2006	EXAMINER	
SoCAL IP LAW GROUP LLP 310 N. WESTLAKE BLVD. STE 120 WESTLAKE VILLAGE, CA 91362			MOORE JR, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/006,072

Applicant(s)

CLEM ET AL.

Examiner

Michael J. Moore, Jr.

Art Unit

2616

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 5-24.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Michael J. Moore, Jr. **MM**  
Examiner  
AU 2616

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the objections to claims 5, 10, 15, 20, and 21 pertaining to punctuation, the suggestions made by Examiner were merely to improve the clarity of the claims, as colons, semicolons, and commas have been used in the claims of numerous patent applications. It is left to Applicant's discretion whether this punctuation should be added. These objections have been withdrawn.

Regarding claims 5, 10, 15, and 20, Applicant argues that Dai et al. (U.S. 6,658,016) is directed to a switching fabric and that Dai et al. teaches away from using crossbar switches. However, in claims 5, 10, 15, and 20, no further definition is given to the term "crossbar" other than that frames are switched from input ports to output ports via a "crossbar". It is held that giving a broadest reasonable interpretation, the packet transfer switching device 12 of Figure 1 switches data from data ring input ports 16 to data ring output ports 20, and thus anticipates this limitation.

Regarding claim 6, Applicant argues that Dai does not disclose "a parser for separating the frames from the messages to form two separate data streams". However, Dai teaches packet transfer switching device 12 of Figure 1 that forwards data packets onward via Ethernet links 15 while forwarding control messages onward via control ring segments 24. Giving a broadest reasonable interpretation, this separation and forwarding of data and control on different paths anticipates a parser.

Regarding claim 8, Applicant argues that Dai does not disclose "plural gates respectively associated with each data port for allowing a given message into a data port only if no other data is present in the given data port". However, Dai teaches control ring processing circuit 60 (gate) of Figure 2A within packet transfer switching devices 12 of Figure 1 that receives and processes control messages including output queuing controlled messages for bandwidth management of the segments 18 of the data ring 19. Giving a broadest reasonable interpretation, it is held that this data ring bandwidth management anticipates this limitation.

Regarding claim 9, Applicant argues that Dai does not teach a crossbar and therefore does not teach the claimed "controller". However, as provided above, Dai teaches the packet transfer switching device 12 of Figure 1 switches data from data ring input ports 16 to data ring output ports 20. Dai also teaches destination management unit 74 (controller) of Figure 2A that arbitrates between competing requests for network port access as well as monitoring the availability of buffer space in the transmit buffer queues 80. It is therefore held that Dai anticipates this limitation.

Regarding claims 7, 12, and 17, Applicant argues that Dai in view of Szczepanek et al. (U.S. 6,621,818) does not teach "a clock for moving the messages by one data port for every clock pulse". However, Szczepanek et al. does teach a ring configuration of network switches where a clock signal is provided by a transmitting ring port to a receiving switch in order to provide synchronous receipt of data signals at the receiving switch. It is held that this synchronous reception anticipates this limitation.

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